

Article 31C.

North Carolina Commercial Feed Law of 1973.

**§ 106-284.30. Title.**

This Article shall be known as the "North Carolina Commercial Feed Law of 1973." (1973, c. 771, s. 2.)

**§ 106-284.31. Purpose.**

The purpose of this Article is to regulate the manufacture and distribution of commercial feeds in the State of North Carolina and to protect a farmer-buyer from the manufacturer-seller of concentrated, commercial feed who might sell substandard or mislabeled feedstuff, and not to protect from himself a farmer who mixes his own feed. (1973, c. 771, s. 1.)

**§ 106-284.32. Enforcing official.**

This Article shall be administered by the Commissioner of Agriculture of the State of North Carolina, hereinafter referred to as the "Commissioner." (1973, c. 771, s. 3.)

**§ 106-284.33. Definitions of words and terms.**

When used in this Article:

- (1) The term "Board" means the North Carolina State Board of Agriculture.
- (2) The term "brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.
- (3) The term "canned pet food" means any commercial feed packed in cans or hermetically sealed containers, and used or intended for use as food for pets.
- (4) The term "commercial feed" means all materials, except whole unmixed seed such as corn, including physically altered entire unmixed seeds when not adulterated within the meaning of G.S. 106-284.38(1), which are distributed for use as feed or for mixing in feed; provided, that the Board by regulation may exempt from this definition, or from specific provisions of this Article, hay, straw, stover, silage, cobs, husks, hulls, unpasteurized milk, and individual chemical compounds or substances which are not intermixed or mixed with other materials, and are not adulterated within the meaning of G.S. 106-284.38(1).
- (4a) The term "contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract between that person and a manufacturer of commercial feeds whereby such commercial feed is supplied, furnished, or otherwise provided to such person by the said manufacturer and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product produced by the independent contractor.
- (5) The term "customer-formula feed" means commercial feed, each batch of which is mixed according to the formula of the customer, furnished in writing over the signature of the customer or his designated agent with each batch moved directly from the manufacturer to the customer and not stocked or displayed in a dealer's warehouse or sales area and not resold or redistributed to any person.

- (6) The term "distribute" means to offer for sale, sell, exchange, or barter, commercial feed.
- (7) The term "distributor" means any person who distributes.
- (8) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.
- (9) The term "feed ingredient" means each of the constituent materials making up a commercial feed.
- (10) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (11) The term "labeling" means all labels and other written, printed, or graphic matter (i) upon a commercial feed or any of its containers or wrapper or (ii) accompanying such commercial feed, or advertisement, brochures, posters, television and radio announcements used in promoting the sale of such commercial feed.
- (12) The term "manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.
- (13) The term "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (14) The term "official sample" means a sample of feed taken by the Commissioner or his agent in accordance with the provisions of G.S. 106-284.42(a), (c) or (e).
- (15) The terms "percent" or "percentage" means percentage by weight, except in G.S. 106-284.42 where these terms refer to the retail value of the lot of commercial feed.
- (16) The term "permitted analytical variation" means allowance for the inherent variability in sampling and laboratory analysis in guaranteed components. Manufacturing variations and their effect on the guaranteed components are not included in such values.
- (17) The term "person" means an individual, a partnership, a corporation, an association, and any other legal entity.
- (18) The term "pet" means any domesticated animal normally maintained in or near the household(s) of the owner(s) thereof.
- (19) The term "pet food" means any commercial feed prepared and distributed for consumption by pets.
- (20) The term "product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.
- (21) The term "specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.
- (22) The term "specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.
- (23) The term "ton" means a net weight of 2,000 pounds avoirdupois. (1973, c. 771, s. 4; 1975, c. 900, s. 1; c. 961, s. 1; 2008-88, s. 3.)

#### **§ 106-284.34. Registration.**

(a) No person shall manufacture or distribute a commercial feed in this State, unless he has filed with the Commissioner on forms provided by the Commissioner, his name, place of business, and location of each manufacturing facility in this State, if any, and made application to the Commissioner for a permit to report the quantity of commercial feed distributed in this State.

(b) Manufacturers of registered feeds may apply for, and the Commissioner at his discretion may issue, numbered permits authorizing manufacturers of registered feeds to purchase commercial feed as defined in G.S. 106-284.33(4), and the responsibility for the payment of the inspection fee assessed by the provisions of this Article will be assumed by the purchaser to whom such permit has been issued. The Commissioner may at his discretion, and without notice, cancel any permit issued under the provision of this section. The use of permits issued under the provisions of this section shall be governed by rules and regulations promulgated by the Commissioner.

(c) No person shall distribute in this State a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the Commissioner. Upon approval by the Commissioner or his duly designated agent the registration shall be issued to the applicant. All registrations expire on the thirty-first day of December of each year. An annual registration fee of five dollars (\$5.00) for each commercial feed other than canned pet food shall accompany each request for registration. An annual registration fee of twelve dollars (\$12.00) for each canned pet food shall accompany each request for registration.

(d) The Commissioner is empowered to refuse registration of any commercial feed not in compliance with the provisions of this Article and to cancel any registration subsequently found not to be in compliance with any provisions of this Article: Provided, that no registration shall be refused or canceled unless the registrant shall have been given an opportunity to be heard before the Commissioner or his duly designated agent and to amend his application in order to comply with the requirements of this Article.

(e) The manufacturer of commercial feed that has not been registered and is found being distributed in the State shall pay a thirty-dollar (\$30.00) delinquent registration fee in addition to the regular registration fee. (1973, c. 771, s. 5; 1989, c. 544, s. 7; 2005-276, s. 42.1(a).)

#### **§ 106-284.35. Labeling.**

A commercial feed shall be labeled as follows:

- (1) In case of commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:
  - a. The net weight.
  - b. The product name and the brand name, if any, under which the commercial feed is distributed.
  - c. The guaranteed analysis stated in such terms as the Board by regulation determines is required to advise the users of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists.
  - d. The common or usual name of each ingredient used in the manufacture of the commercial feed: Provided, that the Board by regulation may

permit the use of collective terms for a group of ingredients which perform a similar function, or the Board may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if it finds that such statement is not required in the interest of consumers.

- e. The name and principal mailing address of the manufacturer or the person distributing the commercial feed.
  - f. Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the Board may require by regulations as necessary for their safe and effective use.
  - g. Such precautionary statements as the Board by regulation determines are necessary for the safe and effective use of the commercial feed.
- (2) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document to be presented to the purchaser at time of delivery, bearing the following information:
- a. Name and address of the manufacturer.
  - b. Name and address of the purchaser.
  - c. Date of delivery.
  - d. The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.
  - e. Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Board may require by regulation as necessary for their safe and effective use.
  - f. Such precautionary statements as the Board by regulation determines are necessary for the safe and effective use of the customer-formula feed. (1973, c. 771, s. 6.)

#### **§ 106-284.36. Bag weights.**

All commercial feed, except that in bags or packages of five pounds or less, shall be in such standard-weight bags or packages as the Board by regulation shall prescribe. (1973, c. 771, s. 7.)

#### **§ 106-284.37. Misbranding.**

A commercial feed shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular.
- (2) If it is distributed under the name of another commercial feed.
- (3) If it is not labeled as required in G.S. 106-284.35.
- (4) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the Board.
- (5) If any word, statement, or other information required by or under authority of this Article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and

understood by the ordinary individual under customary conditions of purchase and use. (1973, c. 771, s. 8.)

**§ 106-284.38. Adulteration.**

A commercial feed shall be deemed to be adulterated:

- (1)
  - a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subdivision if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or
  - b. If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or
  - c. If it is, or it bears or contains, any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug and Cosmetic Act; or
  - d. If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Food, Drug and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a), of the Federal Food, Drug and Cosmetic Act.
  - e. If it is, or it bears or contains, any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act.
- (2) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.
- (3) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.
- (4) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the Board to assure that the drug meets the requirements of this Article as to safety and has the identity and strength and meets the quality and purity characteristics which its purports or is

represented to possess. In promulgating such regulations, the Board shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug and Cosmetic Act, unless it determines that they are not appropriate to the conditions which exist in this State.

- (5) If it contains viable weed seeds in amounts exceeding the limits which the Board shall establish by rule or regulation. (1973, c. 771, s. 9.)

#### **§ 106-284.39. Prohibited acts.**

The following acts and the causing thereof within the State of North Carolina are hereby prohibited:

- (1) The manufacture or distribution of any commercial feed that is adulterated or misbranded.
- (2) The adulteration or misbranding of any commercial feed.
- (3) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of G.S. 106-284.38(1).
- (4) The removal or disposal of a commercial feed in violation of an order under G.S. 106-284.43.
- (5) The failure or refusal to register in accordance with G.S. 106-284.34.
- (6) The violation of G.S. 106-284.44(f).
- (7) Failure to pay inspection fees and file reports as required by G.S. 106-284.40.
- (8) The use of metal fasteners as bag fasteners or for attaching labels to the containers of commercial feed. (1973, c. 771, s. 10.)

#### **§ 106-284.40. Inspection fees and reports.**

(a) An inspection fee at the rate of three cents (3¢) for each carton of 48 cans shall be paid on canned pet food distributed in this State by the person whose name appears on the label as the manufacturing distributor or guarantor subject to (b)(1), (2), (3), and (5) of this section.

(b) An inspection fee at the rate of twelve cents (12¢) per ton shall be paid on commercial feeds distributed in the State by the person whose name appears on the label of the commercial feed as the manufacturer, distributor or guarantor of the commercial feed, subject to the following:

- (1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
- (2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.
- (3) No fee shall be paid on commercial feeds which are used as ingredients or a base for the manufacture of commercial feeds which are registered, if the fee has already been paid. If the inspection fee has already been paid on such commercial feed, the amount paid shall be deducted from the gross amount due on the total feed produced.
- (4) In the case of a commercial feed other than canned pet food which is distributed in the State only in packages of five pounds or less, an annual registration fee of forty dollars (\$40.00) shall be paid in lieu of the inspection fee specified above.

- (5) The minimum inspection fee shall be ten dollars (\$10.00) per quarter unless no feed was sold in the State during the quarter.
- (6) Manufacturers of commercial feeds may appear before the Board, and after finding there exists a contract feeder relationship between a manufacturer of commercial feeds and an independent contractor, the Board may issue annual numbered permits exempting that manufacturer of commercial feed from paying the inspection fee assessed by the provisions of this law for that feed delivered to the contract feeder. The manufacturer of ingredients who sells such ingredients to manufacturers of commercial feeds under this subdivision shall have in his possession the exemption number of the permit referred to in G.S. 106-284.34(b) and/or the permit issued by the Board under this subdivision before the supplier may be relieved of the responsibility for payment of the inspection fee. The holder of a valid contract feeder exemption permit shall be exempt from paying the inspection fee on all ingredients purchased for its own use, provided that at least one-half of the ingredients purchased in the previous calendar year were used in feed delivered to contract feeders.

The holder of said permit may voluntarily return said permit to the Commissioner for cancellation at which time said holder may not apply for or receive another exemption permit under this subdivision for a period of 12 months. The exemption permits under this subdivision shall be renewable automatically every year by the Board without additional findings of fact unless it is brought to the Board's attention by the Commissioner or his duly designated officer or employee that there no longer exists the relationship of a contract feeder between the manufacturer of commercial feeds and an independent contractor. In the event the Commissioner or his duly designated officer or employee notifies the Board when the permit is to be automatically renewed or anytime the permit is in effect, that there no longer exists a contract feeder relationship for the permit holder, the Board shall determine the veracity of the notification and revoke said permit if the facts are found to be true by the Board.

Commercial feeds exempt from inspection fees under this subdivision shall not be subject to sampling and analysis other than as may be necessary to determine compliance with good manufacturing practice regulations pertaining to medicated animal feed and medicated feed premixes established under G.S. 106-284.38(4) of this law.

- (c) Each person who is liable for the payment of such fee shall:
  - (1) File, not later than the last day of January, April, July and October of each year, a quarterly statement setting forth the number of net tons of commercial feeds and/or cases of canned pet food distributed in this State during the preceding calendar quarter, and upon filing such statements shall pay the inspection fee at the rate stated in subsections (a) and (b) of this section. Inspection fees which are due and owing and have not been remitted to the Commissioner within 15 days following the due date shall have a penalty fee of ten percent (10%) (minimum ten dollars (\$10.00)) added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the Commissioner from taking other actions as provided in this Chapter.

- (2) Keep such records as may be necessary or required by the Commissioner to indicate accurately the tonnage of commercial feed distributed in this State, and the Commissioner or his duly designated agent shall have the right to examine such records during normal business hours, to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor. (1973, c. 771, s. 11; 1975, c. 900, s. 2; c. 961, s. 2; 1987 (Reg. Sess., 1988), c. 1043; 1989, c. 544, s. 6; 2005-276, s. 42.1(b).)

**§ 106-284.41. Rules and regulations.**

(a) The Board is authorized to promulgate such rules and regulations for commercial feeds and pet foods as are specifically authorized in this Article and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this Article. In the interest of uniformity the Board shall by regulation adopt, unless it determines that they are inconsistent with the provisions of this Article or are not appropriate to conditions which exist in this State, the following:

- (1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, and
- (2) Any regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act (21 U.S.C. section 301 et seq.).

(b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Article, the Board shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the Board shall take appropriate action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this subsection notwithstanding, if the Board pursuant to the authority of this Article, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act, any amendment or modification adopted by said Association or by the Secretary of Health, Education and Welfare in the case of regulations promulgated pursuant to the Federal Food, Drug and Cosmetic Act, shall be deemed adopted automatically under this Article without regard to the publication of the notice required by this subsection (b), unless the Board by resolution specifically determines that said amendment or modification shall not be adopted. (1973, c. 771, s. 12; 1975, c. 19, s. 32.)

**§ 106-284.42. Inspection, sampling, and analysis.**

(a) For the purpose of enforcement of this Article, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the Commissioner upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized (i) to enter, during normal business hours or actual operation, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution and



take samples therefrom or to enter any vehicle being used to transport or hold such feeds and take samples therefrom; and (ii) to inspect during normal business hours or while in operation, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished or unfinished materials, containers, and labeling therein. The inspection may include the verification of such records, and production and control procedures as may be necessary to determine compliance with this Article.

(b) A separate presentation of appropriate credentials shall be given for each such inspection, but a presentation shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(c) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample(s) in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the sample(s) obtained.

(d) If the owner of any factory, warehouse or establishment described in subsection (a), or his agent, refuses to admit the Commissioner or his agent to inspect in accordance with subsections (a) and (b), the Commissioner or his agent is authorized to obtain without notice from any district or superior court judge within the county where the facility is located, an order directing such owner or his agent to submit the premises described in such order to inspection.

(e) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists, or in accordance with other generally recognized methods.

(f) The results of all analyses of official samples shall be forwarded by the Commissioner to the person named on the label and to the dealer. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, and upon written request within 30 days following receipt of the analysis, the Commissioner shall furnish to the registrant a portion of the sample concerned.

(g) The Commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in G.S. 106-284.33, subdivision (14), and obtained and analyzed as provided for in subsections (a), (c), and (e) of this section.

(h) The Board is authorized to adopt regulations establishing permitted analytical variation providing for reasonable deviation from the guaranteed analysis.

(i) The registrant of a commercial feed found to be in significant violative deviation from the guarantee shall be subject to a penalty for this deviation.

(j) If the analysis of a sample shows a deviation from permitted analytical variation established by the Board, the registrant or other responsible person shall be penalized according to the following schedule:

Component Deviating	Method of Penalty Assessment
Crude protein .....	Three times the relative percentage * of deviation from the guarantee times the retail value of the commercial feed.
Crude fat.....	Ten percent (10%) of retail value of the lot of commercial feed.
Crude fiber .....	Ten percent (10%) of retail value of the lot of commercial feed.
Vitamins.....	Ten percent (10%) of retail value of the lot of commercial feed.

Minerals .....	Ten percent (10%) of retail value of the lot of commercial feed.
Crude protein equivalent from nonprotein nitrogen .....	Ten percent (10%) of retail value of the lot of commercial feed.
Animal drugs.....	Twenty percent (20%) of retail value of the lot of commercial feed.
Antibiotics.....	Twenty percent (20%) of retail value of the lot of commercial feed.
Other analysis.....	Ten percent (10%) of retail value of the lot of commercial feed.

\* Example, a feed guaranteed 16.0% protein and assaying only 14.0%, will be considered as 2.0%/16.0%, or 12.5% deficient in protein. The penalty will be computed as  $3 \times 0.125 \times$  retail value of the feed, or  $0.375 \times$  retail value of the feed.

(k) Penalties for multiple deficiencies within a sample shall be additive; provided that in no case shall the penalty exceed the retail value of the product. The minimum penalty under any of the foregoing provisions shall be twenty-five dollars (\$25.00) or the retail value of the product whichever is smaller, regardless of the value of the deficiency.

(l) Within 60 days from the date of written notice by the Commissioner or his duly designated agent to the manufacturer, guarantor, dealer or agent, all penalties assessed and collected under this section shall be paid to the purchaser of the lot of feed or canned pet food represented by the sample analyzed. When such penalties are paid, receipts shall be taken and promptly forwarded to the Commissioner of Agriculture. If said consumers cannot be found, the clear proceeds of the penalty assessed shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1973, ch. 771, s. 13; 1997-261, s. 109; 1998-215, s. 11.)

#### **§ 106-284.43. Detained commercial feeds.**

(a) "Withdrawal from distribution" orders: When the Commissioner or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Article or of any of the prescribed regulations under this Article, he may issue and enforce a written or printed "withdrawal from distribution" order, ordering the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Commissioner or a court. The Commissioner shall release the lot of commercial feed so withdrawn when said provisions and regulations have been complied with. If compliance is not obtained within 30 days, the Commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) "Condemnation and confiscation": Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the Commissioner to the superior court in the county in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this Article, and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State, provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this Article. All costs and expenses incurred by the Department of Agriculture and Consumer Services in any proceedings associated with such seizure and confiscation shall be paid by the claimant. (1973, c. 771, s. 14; 1997-261, s. 109.)

**§ 106-284.44. Penalties; enforcement of Article; judicial review; confidentiality of information.**

(a) Any person who shall be adjudged to have violated any provision of this Article, or any regulation of the Board adopted pursuant to this Article, shall be guilty of a Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, or his duly designated agent, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(b) Nothing in this Article shall be construed as requiring the Commissioner or his representative to: (i) report for prosecution, or (ii) institute seizure proceedings, or (iii) issue a withdrawal from distribution order, as a result of minor violations of the Article, or when he believes the public interest will best be served by suitable notice of warning in writing.

(c) It shall be the duty of each district attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the Commissioner or his designated agent.

(d) The Commissioner is hereby authorized to apply for and the court to grant a temporary restraining order and a preliminary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Article or any rule or regulation promulgated under the Article notwithstanding the existence of other remedies at law.

(e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Article may within 30 days thereafter bring action in the Superior Court of Wake County for judicial review of such act, order or ruling according to the provisions of Chapter 150B of the General Statutes.

(f) Any person who uses to his own advantage, or reveals to other than the Board, or officers of the other State agencies whose requests are deemed justifiable by the Commissioner, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this Article, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a Class 2 misdemeanor; provided, that this prohibition shall not be deemed as prohibiting the Commissioner, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of the other states, who are similarly prohibited by law from revealing this information. (1973, c. 47, s. 2; c. 771, s. 15; c. 1331, s. 3; 1987, c. 827, s. 1; 1993, c. 539, ss. 760, 761; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 106-284.45. Cooperation with other entities.**

The Commissioner may cooperate with and enter into agreements with governmental agencies of this State, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this Article. (1973, c. 771, s. 16.)

**§ 106-284.46. Publication.**

The Commissioner shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the State as compared with the analyses guaranteed in the

registration and on the label; provided, that the information concerning production and use of commercial feed shall not disclose the operations of any person. (1973, c. 771, s. 17.)